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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,685	08/07/2006	Fabian Fagotti	04306/0204990-US0	9466
7278 7590 01/13/2009 DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770				
EXAMINER BERTHEAUD, PETER JOHN				
ART UNIT		PAPER NUMBER		
3746				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,685

Applicant(s)

FAGOTTI, FABIAN

Examiner

PETER J. BERTHEAUD

Art Unit

3746

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This Office action is in response to amendments filed 11/4/2008. It should be noted that claims 1-5 have been amended.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Fogotti WO 99/53200.

Fogotti (Figs. 2 and 3) teaches a discharge arrangement for a hermetic compressor comprising: a cylinder block 2 defining a compression chamber 7; a first discharge chamber 12 receiving an intermittent gas mass flow from the compression chamber 7; a second discharge chamber 13 in direct communication with the first discharge chamber 12; a third discharge chamber 15 in fluid communication with the first discharge chamber 12 and the second discharge chamber 13 and opened to a discharge tube 9; and a valve means 30 provided in the fluid communication between the first 12 and third 15 discharge chambers and which assumes an open position, communicating the first and the third discharge chambers when a gas mass flow passing from the compression chamber 7 to the first discharge chamber 12 reaches a determined gas mass flow value, and a closed position blocking, at least in most part, said fluid communication between the first 12 and third 15 discharge chamber when

said gas mass flow reaches values that are lower than the determined gas mass flow value; wherein the valve means 30 is disposed in a third discharge orifice 20 provided between the first discharge chamber 12 and the third discharge chamber 15; wherein a valve plate 4 is provided between the compression chamber 7 and the first discharge chamber 12, carrying at least one suction valve 8 and one discharge valve 30, characterized in that the valve means 30 is in the form of a vane mounted to the valve plate 4 (see valve vanes in Figs. 2 and 3).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fogotti WO 99/53200 in view of Seo U.S. 2002/0136646 A1.

Fogotti discloses the invention as discussed above. However, Fogotti does not teach the following claimed limitations as taught by Seo.

Seo discloses a discharge arrangement for a hermetic compressor comprising: a cylinder block 130 defining a compression chamber 131; a first discharge chamber (62) (see paragraph 7 and Fig. 1) receiving an intermittent gas mass flow from the compression chamber 131. Seo further discloses a valve plate 72 between the compression chamber 131 and the first discharge chamber (62) carrying at least one suction valve 71a incorporated into a valve blade 71 affixed to a valve plate 72.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified the valve assembly of Fogotti by implementing the valves into valve blades and securing them to the valve plate, as taught by Seo, in order to increase the life span of the valve assembly. Furthermore, it is well known in the art to incorporate valves into valve blades.

Response to Arguments

6. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection. The phrase "in fluid communication between the first and third discharge chambers" is broad enough to encompass the valve means in the prior art. In reference to Applicant's arguments with respect to the chambers being in series or parallel: Applicant is arguing more than is claimed.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER J. BERTHEAUD whose telephone number is (571)272-3476. The examiner can normally be reached on M-F 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles G Freay/
Primary Examiner, Art Unit 3746

PJB
/Peter J Bertheaud/
Examiner, Art Unit 3746